

record in the voter registration database. Hr'g Tr. at 479:7-15, Dkt. 57.¹ Yesterday, during a status conference with this Court, the State advised the Court that these numbers were from December, rather than January, were merely preliminary, and were undergoing refinement.

Also yesterday, Defendant Whitley's office sent an unknown number of those individuals' names to the counties and flagged them as potential noncitizens. *See* Alexa Ura, *Texas again mistakenly flags voters for citizenship reviews*, The Texas Tribune, <https://www.texastribune.org/2019/03/11/texas-again-mistakenly-flags-voters-citizenship-reviews/> (last visited Mar. 12, 2019) (attached here as Ex. 1). A spokesperson for Defendant Whitley's office indicated that these names were sent out as the result of a vendor error, and Plaintiffs have no evidence to suggest otherwise at this time.

As a result of this error, however, it appears that the monthly process for flagging individuals using the DPS data suffers from the same fatal flaws as the original match, and that substantial numbers of individuals flagged as noncitizens using this data are in fact citizens who have already presented proof of citizenship to DPS. *See id.* According to Travis County Voter Registrar Bruce Elfant, of the 146 names his office received Monday, a "substantial number" had already proved their citizenship when they registered to vote at DPS. *Id.* As such, there is a substantial likelihood that Defendant Ingram testified in error when he stated that 22,000 individuals who recently visited DPS had stated they were not citizens, and that therefore the matching process had identified 1,000 noncitizens who were registered to vote. Both the State's apparent clarification of Mr. Ingram's testimony and the revelation that the monthly lists continue to contain large numbers of naturalized citizens demonstrate the need for the State to provide

¹ "THE COURT: So 22,000 people within the last recent period of time went to apply and received a driver's license and said, "I am not an American citizen." THE WITNESS: That's right. THE COURT: "I'm a legal resident," or, "I'm here on a visa." All right. And then of those 22,000, a thousand of them are registered to vote? THE WITNESS: That's right."

substantially more information to both this Court and the parties concerning the monthly matching process. In the interim, Plaintiffs submit this Advisory and attached Exhibit to supplement the record.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on March 12, 2019 on all counsel of record via the Court's CM/ECF system.

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